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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/137,491    08/21/98    WEINGER    E    9789.3801

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MM91/0425

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EXAMINER

HOBDEN, P

ART UNIT    PAPER NUMBER

2882

DATE MAILED: 04/25/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/137,491

Applicant(s)

WEINGER, ELLIOTT B.

Examiner

Pamela R. Hobden

Art Unit

2882

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 10-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 10-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 1998 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1-5, 10-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Wright et al (US 6,004,276). Wright discloses an open architecture system which teaches an apparatus and method for conversion of an x-ray roentgenogram (Column 2 line 59-61) to a digital computer readable image (figure 10 scanner) that is combined with preselected patient information and printed for storage in a patient medical record (figure 10 printer), comprising providing an x-ray roentgenogram, (Column 2 lines 59-61) digitizing the roentgenogram to form a high resolution digital x-ray image thereof; combining the digital image with a preselected patient identification data, (claim 1) and formatting the combination for printing, so that the preselected patient identification data will not obscure the digital x-ray image when printed, printing a high resolution image of the combination of the digital x-ray image and the preselected patient identification data on a hard paper copy for insertion into the patient record. (column 2 lines 58-67) He also discloses the use of a monitor, (figure 5a), storage in a non-volatile storage medium (figure 5A), means for transmitting the combination of the digital x-ray image (figure 5B, claim 11) and preselected patient identification data (claim 1).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3,5,10-13,15-17 rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkes. Wilkes teaches a system for combining patient data on with medical diagnostic equipment. (Column 5, lines 7-57) that utilizes a computer (fig. 4, item 68) to accept digital images from a diagnostic machine such as an x-ray (Column 5 line 53), through a digitizer, (66a-c, 70a-n), incorporates them with patient data through the use of an input device, 72, (column 4, line 56-column 5 line 30), a printer, 76, a display device, 74, a storage device, (64 and specifically, 82, column 7, lines 40-45), a modem, (Fig. 6, item 116), and telecommunication devices, (62A and 62B). Wilkes does not specifically teach the insertion of an x-ray roentgenogram as his teachings are specifically for an ultrasonic medical system and method. However, it would be obvious to one skilled in the art of medical record data collection and storage, if one were capable of scanning a sonogram and storing it, one would also be able to use this method to scan and store for later use, the information available in an x-ray roentgenogram. The use of a scanner is well known in the computer art as one medium for integration of data with a computer storage medium, and in the process of scanning in a picture/chart/medical test image, the image will be stored digitally. This image can then later be transmitted via modem, fax, or Internet to a receiving party. One would be

motivated to incorporate such technology to simplify data transference to interested parties.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-5, 10-17 has been considered but are moot in view of the new ground(s) of rejection. The examiner has considered fully the applicant's arguments, but finds that the addition of providing an x-ray roentgenogram in lieu of another image to be scanned in does not appear to be new and novel for this type of system.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are various examples of systems available for medical data management: Ilif(US 6,206 ,829 B1), Iliff (US 6,113,540), Iliff (6,071,236,)and Ilif (US 6,022,315 A) .

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pamela R. Hobden whose telephone number is (703)-306-5435. The examiner can normally be reached on Monday-Thursday 8:30-6:00, Alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Kim can be reached on (703)-305-3492. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-308-7382 for regular communications and (703)-308-7722 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0956.

*prh*  
prh

April 23, 2001

*RH*  
**ROBERT H. KIM  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800**